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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) No. CR S-02-560 EJG  
Plaintiff, )  
v. ) GOVERNMENT'S MOTION FOR  
ROLAND ADAMS, ) FURTHER ORDER EFFECTUATING  
aka Harold Whiteaker, ) REVOCATION OF DEFENDANT'S  
aka Peter Brown ) CITIZENSHIP AND ORDER  
Defendant. )

On March 14, 2005, the court issued an order under 8 U.S.C. § 1451 revoking the defendant's citizenship. The government now respectfully moves for a further order effectuating that revocation.

## Procedural History

A jury convicted the defendant on April 14, 2004 of committing fraud to obtain naturalization, in violation of 18 U.S.C. § 1425(a). The court sentenced him on March 11, 2005. His release date, according to the Bureau of Prisons website, is July 2, 2009.

1       On March 14, 2005, the Court ordered that the final order  
2 admitting the defendant to citizenship be revoked, set aside, and  
3 declared void. The Court further ordered cancelled the  
4 certificate of naturalization issued to him on May 31, 2001.  
5 Finally, the Court ordered him to surrender his original  
6 certificate of naturalization to the Department of Homeland  
7 Security, Bureau of Citizenship and Immigration Services.

8       The defendant appealed the conviction, and on June 29, 2006,  
9 the Ninth Circuit affirmed the judgment and sentence. (C.A. No.  
10 05-10176).

11

12       **Legal Standard**

13       Upon a person's conviction under 18 U.S.C. § 1425, the court  
14 "shall thereupon revoke, set aside, and declare void the final  
15 order admitting such person to citizenship, and shall declare the  
16 certificate of naturalization of such person to be canceled." 8  
17 U.S.C. § 1451(e). The trial court has jurisdiction to effectuate  
18 this provision, and that jurisdiction lasts beyond the pendency  
19 of the case. United States v. Inocencio, 328 F3d 1207, 1210 (9th  
20 Cir. 2003). Furthermore, the court "shall make an order canceling  
21 such certificate and shall send a certified copy of such order to  
22 the Attorney General." 8 U.S.C. § 1451(f). Revocation of  
23 naturalization under § 1451 is mandatory. United States v.  
24 Inocencio, 328 F3d at 1209. The court may further order  
25 surrendered the certificate of naturalization to the Attorney  
26 General. 8 U.S.C. § 1451(f).

27       The pendency of an appeal does not divest the district court  
28 of jurisdiction to effectuate these mandatory provisions. United

States v. Maduno, 40 F.3d 1212, 1218 (11th Cir. 1994) (cited in United States v. Inocencio, 328 F.3d at 1209). The defendant has no right to notice or an opportunity to respond before naturalization is revoked. United States v. Inocencio, 328 F.3d at 1211.

## Discussion

The undersigned has learned from the Department of Homeland Security that the language in the attached proposed order will ensure that the defendant's denaturalization is effectuated.

Respectfully submitted,

LAWRENCE G. BROWN  
Acting United States Attorney

Date: *March 9, 2009*

By: /s/ Daniel S. McConkie  
DANIEL S. McCONKIE  
Assistant U.S. Attorney

Attorneys for the Plaintiff  
UNITED STATES OF AMERICA

## ORDER

**IT IS ORDERED THAT** the defendant is forever restrained and enjoined from claiming any rights, privileges, or advantages under any document which evidences United States citizenship obtained as a result of the defendant's naturalization on May 31, 2001.

**IT IS FURTHER ORDERED THAT** the defendant surrender and deliver his Certificate of Naturalization (Certificate No. 26768818) (if he has not already done so), and any copies thereof in his possession (and to make good faith efforts to recover and then surrender any copies thereof that he knows are in possession of others), to the Attorney General immediately; and also return

1 immediately to the Attorney General any other indicia of United  
2 States citizenship, and any copies thereof in his possession (and  
3 to make good faith efforts to recover and then surrender any  
4 copies thereof that he knows are in the possession of others),  
5 including, but not limited to, United States passports, voter  
6 registration cards, and other voting documents. The defendant may  
7 deliver these documents to the Attorney General by mailing them  
8 to the following address:

United States Attorney's Office  
Eastern District of California  
Assistant U.S. Attorney Daniel S. McConkie  
501 I Street, Suite 10-100  
Sacramento, CA 95814

12       **IT IS FURTHER ORDERED THAT**, pursuant to 8 U.S.C. § 1451(f),  
13 the Clerk send certified copies of the following documents to the  
14 Attorney General: (1) this order; (2) the indictment, filed  
15 December 19, 2002; (3) the Court's order of March 14, 2005, and  
16 (4) the judgment, entered on March 21, 2005.

Dated: March 9, 2009

/s/ Edward J. Garcia

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EDWARD J. GARCIA

United States District Judge